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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,341	02/07/2002	Hubert Barth	6386-08-IM	3756
7590 08/04/2003 Charles W Ashbrook Warner-Lambet Company 2800 Plymouth Road Ann Arbor, MI 48105			EXAMINER	
			SHIAO, REI TSANG	
			ART UNIT	PAPER NUMBER
i			1626 DATE MAILED: 08/04/2003	Ç

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Art Unit Examiner Art Unit		Application No.	Applicant(s)				
## Examiner Robert Shiato 1628 The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CPR 1.136(a). In no event, however, may a reply be shelly filled and and St. (A) (Control Provided address of 37 CPR 1.136(a). In no event, however, may a reply be shelly filled and st. (A) (Control Provided address of 37 CPR 1.136(a). In no event, however, may a reply be shelly filled and st. (A) (Control Provided address of 37 CPR 1.136(a). In no event, however, may a reply be shelly filled and st. (A) (Control Provided address). The maintenance of the control provided address of the shell of the communication. If No period for reply is produced above, the maintenance and stems of the shell of the communication. If No period for reply is produced above, the maintenance and stems of the shell of the communication. Feature to reply within the score control period of the communication, even at strength filed, may reduce a my exercised address to many address of the shell of the communication. Page 10 This action is FINAL. 2 DISPOSITION of Claims 10 Responsive to communication(s) filed on application received on 02/07, 2002. 2a This action is FINAL. 2 DISPOSITION of Claims 10 Claims (a) Sider exercised and shell of the society of the communication. 4 Claims (b) Sider exercised and shell of the society of the shell	: • • • • • • • • • • • • • • • • • • •						
Robert Shiao	Office Action Summary						
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THE MAILING DATE OF THIS COMMUNICATION. Educations of time raply be suitable under the provision of 3 CFR 1.13(b), in no event, however, may a reply be timely filled atter 5X (6) MONTRS from the making date of this communication. It NO period for reply is specified under the provision of 3 CFR 1.13(b), in no event, however, may a reply be timely filled atter 5X (6) MONTRS from the making date of this communication. It NO period for reply is specified above, the maximum statutory period vall up and vall explains (6) (6) MONTRS from the making date of this communication. Fallow to reply within the set or certended period for reply vell, by statute, cause the application to become ARANDONED (65 U.S. 5 § 133). Any reply recently by the fills during the thin the montrol and statutory and vell very and vell care the making date of this communication, were filternly filled, may relate any. Status 1)[2] Responsive to communication(s) filled on application received on 02/07, 2002. 2a) This action is FINAL. 2b)[2] This action is condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)[2] Claim(s) 1-5 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)[3] Claim(s) 1-5 are subject to restriction and/or election requirement. Application Papers 9] The specification is objected to by the Examiner. 10) The drawing(s) filled on is/are: a)[3 accepted or b)[3 objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11)[3] The proposed drawing correction filed on is/are: a)[3 accepted or b)[3 objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12)[3] The coath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13] Acknowledgment is made of a claim for foreign	Period for Reply						
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DETAILED ACTION

1. Claims 1-5 are pending in the application.

Election/Restrictions

2. This application contains the following inventions or groups of inventions, which are not so linked as to form a single inventive concept under PCT Rule 13.1.

Due to the numerous variables in the claims, e.g., R1, R2, R3, R4, R5, HAL, and HETN in claim 1 or claim 2, and their widely divergent meanings, a precise listing of inventive groups cannot be made. The following groups are exemplary:

- Claims 1, 3-5, drawn to a process for making a compound of formula XIV, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HAL is halogen.
- Claims 1, 3-5, drawn to a process for making a compound of formula XIV, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HAL is the compounds of formulae V or VI.
- III Claims 1, 3-5, drawn to a process for making a compound of formula XIV, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group,

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or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HAL is the compounds of formulae VII.

- IV Claims 1, 3-5, drawn to a process for making a compound of formula XIV, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HAL is the compounds of formulae VIII or IX.
- V Claims 1, 3-5, drawn to a process for making a compound of formula XIV, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HAL is the compounds of formulae X or XI.
- VI Claims 2-5, drawn to a process for making a compound of formula I, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HETN is benzotriazole.
- VII Claims 2-5, drawn to a process for making a compound of formula I, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HETN is imidazole.

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VIII Claims 2-5, drawn to a process for making a compound of formula I, wherein R1, R2, R3, R4, and R5 are independently hydrogen, nitro group, or cyano group, alkylcarbonyl, arylcarbonyl or an amide group; and HETN is indole.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Again, this list is not exhaustive, as it would be impossible under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore, applicant may choose to elect a single invention by identifying another specific embodiment not listed in the exemplary groups of the invention and examiner will endeavor to group the same.

The claims herein lack unity of invention under PCT rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The compound claimed contain a phenylindole moiety, which does not define a contribution over the prior art (as can be seen by the compound II of CAS: 123:55807). The substituents on the phenyl vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unit of invention is considered to be proper. Additionally, the vastness of the claimed subject matter, and the complications

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in understanding the claimed subject matter impose a burden on any examination of the claimed subject matter.

3. Applicants are advised that the reply to this requirement to be complete must include an election of invention to be examined even though the requirement be traversed (37 CFR 1.143).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (703) 308-4002. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (703) 308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Robert Shiao, Ph.D Patent Examiner Art Unit 1626 Joseph K. McKane Joseph K. McKane Supervisory Patent Examiner Art Unit 1626

July 29, 2003